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In re Application of	:	
NONAKA, et al.	:	
Application No.: 10/551,767	:	
PCT No.: PCT/JP04/04796	:	DECISION ON PAPERS
Int. Filing Date: 01 April 2004	:	
Priority Date: 04 April 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: 2005_1235A	:	
For: CONTENT-RELATED INFORMATION	:	
DELIVERY SYSTEM	:	

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The combined declaration and power of attorney filed 17 May 2006 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

### **BACKGROUND**

On 01 April 2004, applicant filed international application PCT/JP04/04796, which claimed priority to an earlier application filed 04 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 October 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 October 2005.

On 03 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an English translation of the international application.

On 08 May 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 17 May 2006, applicant responded with the executed combined declaration and power of attorney discussed herein.

### DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

“In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.”

The declaration submitted on 17 May 2006 was executed by Masami Yamamichi, Satomi Yamamichi and Keiko Yamamichi heirs of the estate of deceased inventor, Masato Yamamichi. However, the filed declaration does not satisfy the requirements under 37 CFR 1.497 (a)-(b). Specifically, the oath or declaration must provide the citizenship of both the deceased inventor and the signing heirs per 37 CFR 1.497(a)(3). The present declaration provides this information for the signing heirs but is blank for the deceased inventor, Mr. Masato Yamamichi. In addition, applicant is required to provide a statement that the declaration lists all of the heirs of the deceased inventor and that a legal representative has not been appointed nor is statutorily required to be appointed.

### CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice.**

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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